

For: State and County Offices, CMA's, and LSA's

Provisions for Peanut Designated Marketing Associations (DMA's)

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

According to 7 CFR Part 1421, under CCC's peanut marketing assistance (MAL) loan program, peanut MAL's and loan deficiency payments (LDP's) are available to producers of peanuts according to the general regulations governing the 2002 through 2007 crop. Peanut producers may obtain peanut MAL's and LDP's from any of the following:

- DMA
- Cooperative Marketing Association (CMA)
- FSA County Office.

B Purpose

This notice provides State and County Offices, CMA's, and LSA's with:

- an announcement that CCC intends to permit DMA's to act as agent for CCC in performing certain peanut MAL and LDP making and servicing functions
- DMA application, activation, and operating provisions for DMA's and DMA Service County Offices.

C Contact

Persons with questions about this notice may contact Chris Kyer at PSD by:

- e-mail at **chris_kyer@usda.gov**
- telephone at 202-720-7935.

Note: FSA County Offices shall route questions through their FSA State Office.

Disposal Date

August 1, 2004

Distribution

State and County Offices, CMA's, and LSA's

2 General Provisions

A Definitions

A Designated Marketing Association (DMA) is an entity or a subsidiary thereof that performs marketing functions for a marketing association of peanut producers, does not take title to the commodity, and is authorized by CCC to provide and to service CCC peanut MAL's and LDP's for individual producers who have beneficial interest in peanuts.

An Administrative County Office is the FSA County Office where a producer's FSA records are maintained.

A DMA Service County Office is a FSA County Office designated by CCC to accept, process, and disburse peanut MAL's and LDP's to DMA.

A Control FSA County Office is the FSA County Office that controls subsidiary files for producers designated as multi-county producers.

Primary owners are those entities owning more than 10 percent of DMA.

B Related FSA Handbooks

FSA handbooks, which DMA's must have and be knowledgeable of, related to the peanut MAL and LDP program include the following.

- 1-CM for common provisions about signature requirements, FAXed signatures, power of attorney, and assignments.
- 1-CMA for producer eligibility and payment limitation amount (PLM) instructions.
- 8-LP and a forthcoming handbook for basic peanut MAL and LDP program requirements, especially beneficial interest.
- 50-FI for CCC interest rates.

C DMA Responsibilities

DMA's shall act as CCC's agent for the following purposes:

- preparing and executing CCC peanut MAL and LDP application documents
- determining that producers and the commodity are eligible for MAL's and LDP's
- determining that eligible peanuts are free and clear of all liens by performing lien searches at DMA expense

2 General Provisions (Continued)

C DMA Responsibilities (Continued)

- instructing the holder of electronic warehouse receipts (EWR's), if applicable, to notify the EWR provider to amend EWR to show CCC is the holder
- receiving CCC funds from a DMA Service County Office, previously approved by CCC, for the peanut MAL's or LDP amounts shown on the MAL or LDP documents presented to the DMA Service County Office
- disbursing CCC peanut MAL's and LDP proceeds to individual producers who have beneficial interest in eligible peanuts
- preparing and executing documents for MAL repayments
- collecting repayment funds from producers or buyers and transmitting such funds to CCC
- transmitting documents to render forfeited collateral to CCC
- collecting data for reporting to CCC as required by CCC.

D Further DMA Responsibilities

As part of performing the above responsibilities, DMA's shall:

- perform such services according to the procedures outlined in the applicable peanut program regulations and notices published in the Federal Register, applicable peanut FSA handbooks and amendments thereto, and any notices or instructions issued by the Deputy Administrator for Farm Programs (DAFP)
- make and service CCC peanut MAL's and LDP's, only upon presenting warehouse receipts, unless otherwise directed by CCC
- become familiar with the peanut program as set forth in the applicable regulations, notices published in the Federal Register, FSA peanut handbooks, forms, and other instructions issued about the peanut MAL and LDP program
- attend DMA, peanut MAL, and LDP program training offered by CCC at DMA expense
- provide sufficient personnel, computer hardware, computer communications systems, and software, as determined necessary by CCC, to administer the peanut MAL and LDP program.

2 General Provisions (Continued)

E Prohibited DMA Activity

DMA's shall **not**:

- pool the producer's peanuts for the purpose of obtaining peanut MAL's or LDP's from CCC
- pool the proceeds obtained from peanut MAL's or LDP's made by CCC
- make farm-stored certified or measured MAL's or LDP's unless authorized by CCC
- take title to any peanuts
- operate the DMA operation under the same entity and tax identification number that is a CCC-approved CMA
- because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status, deny any producer from participating in MAL or LDP for which they would otherwise be eligible to obtain benefits earned by participating in a MAL or LDP program
- refuse services to producers because DMA was not granted a power of attorney on FSA-211 for executing MAL documents to obtain loans, repaying the loans for the producer, obtaining LDP's, or marketing the producer's peanuts
- adopt any scheme or device to circumvent the purpose of the peanuts MAL and LDP program regulations, the regulation governing DMA's, or its agreement with CCC
- make MAL's or LDP's to producers involved in a bankruptcy proceeding

Note: Advise the producer to contact their administrative FSA County Office.

- make MAL's or LDP's on ineligible peanuts.

2 General Provisions (Continued)

F CCC Authority and Responsibilities

DAFP shall provide the program's general direction and supervision.

PSD shall:

- administer the program
- administer requirements in this notice
- receive and approve or disapprove DMA applications
- provide producer eligibility and payment limitation data to DMA that DMA will use to determine whether the producer is an eligible producer or if the producer will exceed allotted payment limitation
- make FSA claim, assignment, debt, and other applicable information available to DMA
- perform administrative reviews of DMA's.

FMD shall:

- hold security that DMA's provide to CCC
- provide CCC's program interest rate to DMA's.

G DMA Service County Office Responsibility

FSA County Offices designated to be DMA Service County Offices shall:

- accept and process peanut MAL and LDP applications from DMA's

Note: DMA's will bundle MAL and LDP requests received from individual producers. The DMA Service County Office will provide a single MAL or LDP to DMA that covers the volume represented by multiple receipts from multiple producers.

- hold paper warehouse receipts if EWR's are not available
- disburse MAL/LDP to DMA bank by direct deposit
- provide MAL/LDP documents to DMA
- not determine commodity and producer eligibility
- not charge DMA a service fee.

3 Applications for DMA Status

A Application Process

Entities or subsidiaries that provide marketing functions for marketing associations of peanut producers wishing to apply for DMA status shall submit the following documents and information to PSD.

- Two properly executed CCC-912P's, see Exhibit 1.

Note: Obtain CCC-912P according to paragraph 8.

- Audited financial statement less than 1 year old on the date submitted, including accompanying notes, schedules, or exhibits, certified by a certified public accountant as fairly representing the entity's financial condition.

Note: A pro-forma financial statement may be submitted if the entity to perform DMA services is a new entity.

- Tax identification number applicable to the entity.
- List of employees involved in CCC program activities, including current directors, officers, and primary owners.
- Copy of any applicable incorporating or partnership documents.
- Contact person's:
 - name and title
 - mailing address
 - e-mail address
 - telephone number
 - FAX number.
- Narrative explaining how the proposed DMA entity or parent entity provides marketing services to a marketing association of peanut producers.
- Additional financial security, if applicable, according to paragraph 4.
- Nomination of a FSA County Office to serve as the DMA Service County Office.
- Any additional information requested by PSD.

Note: After submitting documentation, promptly notify the Director, PSD if any changes are made to the submitted documents.

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3 Applications for DMA Status (Continued)

B DMA Approval and Activation Process Summary

DMA's shall obtain approval and are activated according to the following table.

Step	Action
1	<p>Potential DMA's shall complete and Fed-Ex application documents to the Director, PSD at the following address.</p> <p>Director Farm Service Agency, Price Support Division 1400 Independence Ave. SW Room 4095 STOP 0512 Washington, DC 20250</p>
2	<p>PSD shall:</p> <ul style="list-style-type: none">• review application documents• obtain additional information to support the application, if necessary• grant entity approval or disapproval to act as DMA.
3	<p>DMA's shall:</p> <ul style="list-style-type: none">• provide PSD the following:<ul style="list-style-type: none">• list of all employees authorized to sign CCC documents for DMA• sample signatures of everyone authorized to sign CCC documents• test files and other documents as required by PSD to demonstrate hardware and software accuracy• copies of DMA computer generated CCC forms, if any• contact the Kansas City Helpdesk at 800-255-2434 (Web Support) to obtain a User-ID and password to submit and receive eligibility process files, if not already established for CMA purposes• establish a bank account enabled to receive direct deposit of funds from CCC.
4	<p>PSD shall:</p> <ul style="list-style-type: none">• coordinate the establishment of DMA system files on the DMA Service County Office computer system• provide DMA training to DMA's and to the DMA Service County Office, if time permits.

4 Financial Security Requirements

A Amount of Financial Security Required

DMA's shall provide:

- an initial amount of financial security according to this subparagraph
- an amount of financial security as determined by CCC during the annual recertification for DMA status conducted according to paragraph 12.

The financial security shall be in the following 2 parts:

- a current net worth ratio of at least 1:1, current net worth being the DMA's current assets minus current liabilities, according to the financial statement provided for:
 - DMA application
 - DMA recertification for CMA status

Note: The current net worth of an existing entity with CMA status may be included in calculating the current net worth of a subsidiary that will have DMA status, according to a consolidated financial statement.

- an additional security type according to subparagraph B equal to \$100,000.

B Additional Types of Financial Security

Additional types of financial security shall be any of the following:

- certified or cashier's check payable to CCC
- an irrevocable commercial letter of credit in a form acceptable to CCC
- a performance or surety bond conditioned on DMA fully discharging all of its obligations under this agreement
- other form of security, as CCC may deem appropriate.

4 Financial Security Requirements (Continued)

C Liability

DMA's:

- shall hold CCC harmless from any claim made against CCC in connection with any MAL or LDP making, MAL servicing, or other activity carried out by DMA, not according to the terms and conditions of the DMA agreement
- are liable to CCC for any losses incurred by CCC as a result of DMA's failure to discharge all of its obligations under this agreement; payment in the amount of such losses shall:
 - first, be made to CCC from the financial security provided by DMA
 - second, by DMA if the amount of the loss exceeds the amount of the financial security.

5 Terminating or Suspending the DMA Agreement

A Termination Provision

The DMA agreement may be terminated by:

- either party at any time upon 30-calendar days written notice to the other party
- CCC without providing 30 days notice if CCC determines that DMA has failed to meet the terms and conditions of the DMA agreement.

B Suspension Provision

If CCC determines that DMA is not in compliance with the DMA agreement, CCC may also:

- suspend DMA from making new peanut MAL's and LDP's
- lift the suspension, if DMA can come into compliance with CCC terms and conditions within a time period established by CCC.

Note: If DMA sends a notice of termination to CCC or receives a notice of termination from CCC, DMA shall immediately cease executing MAL or LDP documents.

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6 DMA MAL and LDP Processing

A Processing MAL and LDP Requests

DMA's shall process MAL and LDP requests according to the following.

Step	Action
1	<p>Peanut producers:</p> <ul style="list-style-type: none">• shall request MAL or LDP at DMA• shall provide beneficial interest information• may provide FSA-211 according to paragraph 9, at his or her option• shall provide jurisdictional data on CCC-10 for lien search purposes only• shall deliver to DMA 1 of the following:<ul style="list-style-type: none">• individual paper warehouse receipts in producer's name• EWR numbers and provider's name
2	<p>DMA's shall follow procedures to determine whether the producer and commodity is eligible, based on beneficial interest, for MAL's or LDP's. See 2-LP Peanuts for beneficial interest provisions. If beneficial interest is:</p> <ul style="list-style-type: none">• held by the producer at time of MAL or LDP, the process shall continue• lost by the producer before requesting MAL or LDP, the process shall stop.
3	<p>DMA's shall verify eligibility according to 1-CMA. If:</p> <ul style="list-style-type: none">• eligible, the process shall continue• ineligible, DMA shall return the documents submitted by the producer in step 1 and stop the MAL or LDP process. <p>DMA's shall:</p> <ul style="list-style-type: none">• determine whether PLM is available for LDP and market gain purposes• enter into FSA-211 with the producer, according to paragraph 9, if requested by the producer.

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6 DMA MAL and LDP Processing (Continued)

A Processing MAL and LDP Requests (Continued)

Step	Description	
4	IF the request is...	THEN DMA shall...
	MAL	<ul style="list-style-type: none"> complete lien search at DMA expense and obtains lien waivers if EWR's are applicable, instruct producer to notify EWR provider to amend EWR to show CCC as holder complete CCC-678 and other MAL forms give CCC-601 to each producer.
	LDP	<ul style="list-style-type: none"> complete either of the following: <ul style="list-style-type: none"> CCC-633 LDP CCC-709, if applicable if EWR's are applicable, instruct producer to notify EWR provider to amend EWR to show peanuts were used to obtain LDP. <p>Note: LDP rate applicable to request is rate in effect on date of DMA request.</p>
5	Producer or power of attorney entity shall sign MAL or LDP documents.	
6	DMA shall submit the following to the DMA Service County Office: <ul style="list-style-type: none"> individual paper warehouse receipts or EWR numbers, and EWR provider's name an application form to be developed by PSD, and other documents, as required. 	
7	The DMA Service County Office shall: <ul style="list-style-type: none"> process MAL or LDP to DMA for the volume of peanuts on multiple receipts hold warehouse receipts disburse MAL or LDP to DMA by direct deposit provide MAL/LDP documents to DMA waive service fee to DMA. 	
8	DMA shall issue MAL or LDP funds to producer within 3 work days.	
9	DMA shall send the producer a maturity notice letter before MAL maturity.	

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6 DMA MAL and LDP Processing (Continued)

A Processing MAL and LDP Requests (Continued)

Step	Action
10	DMA's shall process MAL repayments, forfeitures, or reconcentrations as authorized by the producer, designated agent on CCC-605P, or power of attorney.
11	DMA's shall maintain MAL or LDP documents according to 25-AS.
12	DMA's shall repay MAL at the DMA Service County Office with producer or buyer funds.

7 Fees Charged to the Producers by DMA

A Fees for Marketing Services

If applicable, DMA's may charge producers a fee for marketing services at a rate to be determined by DMA.

B Fees for Providing MAL's and LDP's

DMA's may charge the producer requesting a CCC peanut MAL or LDP a fee for preparing MAL or LDP documents and for servicing MAL, at a rate determined by DMA.

Service fees shall be:

- deducted from the MAL or LDP amount received by DMA from CCC before distribution to the producer
- assessed at the same rate for each producer requesting a CCC peanut MAL or LDP through the service provided by DMA.

8 CCC Forms

A Policy

DMA's as authorized agents of CCC, shall use:

- either current CCC forms or forms approved by CCC to document program services
- 1 of the following options:
 - forms and instructions obtained from CCC by accessing the website located at **www.sc.egov.usda.gov**
 - computer-generated forms as described in this paragraph.

B Requests to Computer-Generate Forms

DMA's shall:

- request approval to use computer-generated forms by sending computer-generated copies of the proposed forms to PSD
- **not** use the computer-generated form until written approval has been received from the Director, PSD
- submit revised forms to PSD for approval
- submit all DMA generated forms to PSD as part of the annual DMA status recertification review.

9 Using FSA-211

A Policy

For the purpose of signing MAL and LDP documents, producers may delegate power of attorney to another person or to DMA on FSA-211. DMA's shall:

- refer to 1-CM for general policies about FSA-211's and FSA-211-1's
- verify that FSA-211 is notarized or witnessed

Note: A notary public seal on FSA-211 is not required when FSA-211 is signed by an individual in the presence of an FSA employee.

- contact the County Office identified in the revocation sentence on FSA-211 to verify that FSA-211 has not been revoked before processing any applicable MAL advance or LDP
- not accept any power of attorney forms other than FSA-211.

Persons who have been granted power of attorney by a producer shall deliver FSA-211 to DMA.

FSA-211 used to delegate DMA with a producer's power of attorney shall include an attachment with the following statement.

“(The producer) hereby acknowledges that (the DMA) is an agent of the Commodity Credit Corporation for the purpose of performing certain services requisite to the making and servicing of Commodity Credit Corporation peanuts MAL's and LDP's to eligible producers of eligible peanuts and agrees to permit (the DMA) to act as agent for both (the producer) and the Commodity Credit Corporation. (The DMA) shall disclose to (the producer) all facts which (the DMA) knows or should know would reasonably affect the judgment of (the producer) in permitting (the DMA) to act as agent for both (the producer) and the Commodity Credit Corporation.”

9 Using FSA-211 (Continued)

B FSA-211 Used With CCC-605P

Producers:

- may designate DMA to be an agent on FSA-211, to act on their behalf to execute CCC-605P if FSA-211 **specifically** grants the authority to execute CCC-605P
- must be fully aware that designating an agent to execute CCC-605P grants that agent the authority to further delegate authority to another agent.

An agent designated on FSA-211 cannot execute a new FSA-211 to further delegate authority to another agent.

DMA's shall:

- refer to CCC-605P policy in Notice LP-1925
- accept CCC-605P if FSA-211 specifically grants authority to designate another agent on CCC-605P.

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9 Using FSA-211 (Continued)

C Completing FSA-211

Complete FSA-211's to delegate power of attorney to DMA's according to the following.

Item	Instructions
1 through 4	Enter DMA's name, address, county, and State.
5	Enter the producer's name.
Section A	Check box for item: <ul style="list-style-type: none">• 8• 11 and ENTER "Peanuts".
Section B	Check the box for item 6, and if FSA-211 will be used to execute CCC-605P, check the box for item 7 and ENTER "CCC-605P".
6 A through C	Individual producers shall sign, enter date, and social security number.
7 A through D	Corporations shall sign, enter title, date, and identification number.
8 A through C	FSA employee witnessing shall sign, enter date, and position title.
9 A through C	Notary public shall enter seal, signature, and State and county of commission. Note: Notarization is required when FSA-211 is not signed by an individual in the presence of an FSA employee.
10 A through E	Enter place signed, State, and date executed.

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9 Using FSA-211 (Continued)

D Example of FSA-211

The following is an example of a properly completed FSA-211.

This form is available electronically.		Form Approved - OMB No. 0560-0190	
FSA-211 (07-25-02)			
U. S. DEPARTMENT OF AGRICULTURE Farm Service Agency - Commodity Credit Corporation - Federal Crop Insurance Corporation			
POWER OF ATTORNEY			
<p>THE UNDERSIGNED does hereby appoint (1) <u>Acme DMA</u>, of (2) <u>2 Main St.</u>, (3) <u>Franklin</u> County, State of (4) <u>Georgia</u>, the attorney-in-fact to act for (5) <u>Frank S. Smith</u> in connection with Farm Service Agency and Commodity Credit Corporation program number(s) checked below. Checking any of the FSA or CCC programs does not have any impact as to the FCIC transactions checked below:</p>			
A. FSA and CCC PROGRAMS <i>(Check applicable program numbers)</i>		B. Transactions for FSA and CCC Programs <i>(Check applicable program numbers)</i>	
<input type="checkbox"/> 1. All current programs. <input type="checkbox"/> 2. All current and all future programs. <input type="checkbox"/> 3. Direct and Counter-Cyclical Program except 2002 peanuts covered by Item A4. <input type="checkbox"/> 4. 2002 Direct and Counter-Cyclical Peanut Program. <input type="checkbox"/> 5. Peanut Quota Buy-Out Program.	<input type="checkbox"/> 6. Noninsured Crop Disaster Assistance Program. <input type="checkbox"/> 7. Tobacco programs. <input checked="" type="checkbox"/> 8. Marketing Assistance Loans and Loan Deficiency Payments. <input type="checkbox"/> 9. Conservation programs. <input type="checkbox"/> 10. Milk Income Loss Contract Program. <input checked="" type="checkbox"/> 11. Other (Specify) <u>Peanuts</u>	<input type="checkbox"/> 1. All actions. <input type="checkbox"/> 2. Signing applications, agreements, and contracts. <input type="checkbox"/> 3. Election of bases and yields except peanut designation covered by Item B4. <input type="checkbox"/> 4. Designation of peanut historical base and yield to a farm.	<input type="checkbox"/> 5. Making reports. <input checked="" type="checkbox"/> 6. Conducting all marketing assistance loan and LDP transactions. <input checked="" type="checkbox"/> 7. Other (Specify) <u>CCC-605P</u>
<p>This form may also be used to grant authority to an attorney-in-fact to act on the grantor's behalf with respect to certain FCIC programs and crops. Checking any of the FCIC transactions does not have any impact as to the FSA or CCC transactions checked above:</p>			
C. FCIC CROPS <i>(Enter "All" or specify each crop and year)</i>		D. TRANSACTION NUMBERS USED BY FCIC <i>(Check applicable numbers)</i>	
1. _____ 2. _____ 3. _____ 4. _____	<input type="checkbox"/> 1. All actions. <input type="checkbox"/> 2. Making application for insurance. <input type="checkbox"/> 3. Reporting crop acreage and notice of damage reports. <input type="checkbox"/> 4. Making claim for indemnity. <input type="checkbox"/> 5. Making contract changes. <input type="checkbox"/> 6. Other (Specify) _____		
<p>This Power of Attorney is valid in all counties in the United States unless otherwise noted. This power of attorney shall remain in full force and effect until (1) written notice of its revocation has been duly served upon FSA; (2) death of the undersigned grantor, or (3) incompetence or incapacitation of the undersigned grantor. The undersigned grantor shall provide separate written notice of revocation to the applicable crop insurance agent. This power of attorney shall not be effective until properly executed and served to a FSA Service Center.</p>			
AUTHORIZED SIGNATURES:			
6A. Signature(s) of Grantor(s) (Individual) <u>Frank S. Smith</u>		B. Date (MM-DD-YYYY) <u>08-15-03</u>	C. Social Security Number <u>11-00-0000</u>
7A. Signature of Grantor (Partnership, Corporation, Trust, etc.)		B. Title	C. Date (MM-DD-YYYY) D. Identification No. of Entity
8A. Witness Signature (FSA Employee Only) <u>Dan Rivers</u>		B. Date (MM-DD-YYYY) <u>08-15-03</u>	C. Official Position <u>Program Technician</u>
9. Notary Public (this form shall be acknowledged by a Notary Public unless witnessed by a FSA employee or a corporate seal of grantor is affixed). Signature (a) _____ State of (b) _____ County of (c) _____			
10. This power of attorney was served to (a) <u>Franklin</u> County FSA Office, (b) State of <u>Georgia</u> and became effective this (c) <u>15</u> day of (d) <u>August</u> , (e) <u>2003</u> .			
NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is The Food Security and Rural Investment Act of 2002 (Pub. L. 107-171) and 7 CFR Part 718. The information will be used to legally document your opinion to appointing an attorney-in-fact, identify the person and authorities granted to the appointee. Furnishing the requested information is voluntary; however, failure to furnish the requested information will result in the individual or entity not being able to act as your attorney-in-fact. This information may be provided to other agencies, IRS, Department of Justice or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 651, 1001; 15 USC 714m, and 31 USC 3729, may be applicable to the information provided. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0190. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.			
The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9419 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.			

9 Using FSA-211 (Continued)

E Distributing FSA-211

DMA's preparing FSA-211 shall distribute FSA-211 as follows:

- original to DMA
- first copy to producer granting power of attorney
- second copy to FSA **control** County Office.

10 Liens and Lien Waivers

A Lien Search Policy

DMA's shall:

- follow lien policies in 8-LP or a forthcoming peanut handbook
- determine whether a lien exists by performing or obtaining a lien search:
 - for **all** peanuts to be pledged for each MAL
 - at the appropriate recording official's office or a centralized filing facility
 - in the appropriate UCC jurisdiction according to data on CCC-10 filed by the producer
 - at DMA expense
- document the results of the lien search on FSA 440-13 or a similar form
- file the results in the applicable loan folder.

10 Liens and Lien Waivers (Continued)

B Obtaining CCC-679

DMA's shall:

- if liens exist, obtain lienholder signatures on CCC-679 to release a particular lien on peanuts pledged for MAL
- obtain CCC-679 for each lienholder.
- **not** disburse the MAL if an offset is applicable, unless the lienholder agrees to the offset by checking line 1 or 3 on CCC-679.
- require CCC-679's for all MAL requests received from FSA Farm Loan Program borrowers
- not obtain lien waivers for liens that are not recorded unless actual notice of the existing lien is provided to DMA by the lienholder in person or in writing.

Note: Examples of unrecorded liens include landlord liens, sheller's possessory liens, and harvesters' liens.

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10 Liens and Lien Waivers (Continued)

C Completing CCC-679 (Continued)

DMA's shall complete:

- CCC-679 according to the following table
- item 8(3), if applicable, according to subparagraph D.

Item	Instructions
1	Enter producer's name and address.
2	Enter crop year.
3	ENTER "Peanuts".
4	Enter the farm number or numbers, as applicable. If liens are waived on all farms, ENTER "All".
5	Enter the State and county codes for DMA.
6	<p>If the waiver releases:</p> <ul style="list-style-type: none"> • all of the commodity covered by CCC-679, ENTER "All" and the commodity • just a quantity of the commodity being pledged for MAL, enter applicable quantity, peanuts, and farm number.
7	Enter the State and county where the peanuts were produced.
8	<p>Lienholder shall check the applicable box.</p> <p>Note: See subparagraph D for additional instructions.</p>
9	Enter estimated net disbursement amount, if applicable.
10	Enter the lienholder's or authorized agent's name and address.
11 A and B	Lienholder shall sign and date.

10 Liens and Lien Waivers (Continued)

D Completing CCC-679 Block 8, Item 3

DMA's shall complete CCC-679, item 8(3), according to the following table.

IF...	AND...	THEN...
an administrative offset does not apply		ENTER "none" on CCC-679, item 8(3)(a)
an administrative offset does apply		enter the offset amount as of the date CCC-679 is prepared on CCC-679, item 8(3)(a)
	<p>the lienholder is any of the following:</p> <ul style="list-style-type: none"> • United States of America, acting through USDA or FSA • USDA • USDA, formerly FmHA • FSA • FSA, formerly FmHA 	<ul style="list-style-type: none"> • enter the offset amount as of the date CCC-679 is prepared on CCC-679, item 8(3)(a) • calculate the estimated net disbursement amount in item 9 as follows: <ul style="list-style-type: none"> • multiply applicable county loan rate for the commodity times the quantity for MAL • deduct assessments, fees, and administrative offsets, as applicable • enter "estimated net disbursement amount is \$____" before CCC-679 is given to an FSA FLP representative.
a statement of charges, according to 8-LP, paragraph 450, signed by the producer, accompanies the warehouse receipt		<p>do either of the following:</p> <ul style="list-style-type: none"> • add the total dollar amount of the charges to any other offset amounts • modify the statement to add language that states whose charges are being offset without specifying the type or amount of the charges.

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10 Liens and Lien Waivers (Continued)

D Example of CCC-679

The following is an example of a properly completed CCC-679.

This form is available electronically. CCC-679 (06-20-03)		U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation		Form Approved - OMB No. 0560-0087
LIEN WAIVER				
1. NAME AND ADDRESS OF PRODUCER (Include Zip Code): <div style="text-align: center; padding: 5px;"> John W. Smith 100 East Road Camilla, Georgia 01242 </div>	2. CROP YR. <div style="text-align: center; padding: 5px;">2003</div>	3. COMMODITY <div style="text-align: center; padding: 5px;">Peanuts</div>	4. FARM NO. <div style="text-align: center; padding: 5px;">875</div>	5. ST. & CO. CODE <div style="text-align: center; padding: 5px;">13-810</div>
6. QUANTITY COVERED <div style="text-align: center; padding: 5px;">All Peanuts</div>		7. STATE AND COUNTY WHERE PRODUCED <div style="text-align: center; padding: 5px;">McIntosh</div>		
<p>NOTE The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Federal Agriculture Improvement and Reform Act of 1996 and the Commodity Credit Corporation Charter Act, as amended and regulations at 7 CFR Parts 1421, 1427, and 1435. The information will be used to determine to whom program benefits will be paid. Furnishing the requested information is voluntary; however, failure to furnish the correct and complete information will result in a determination of ineligibility for program benefits. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.</p> <p>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0087. The time required to complete this information collection is estimated to average 6 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</p>				
8. The undersigned is the holder of a lien on the commodity identified above. In order for the producer identified above to pledge such commodity as collateral for a Commodity Credit Corporation ("CCC") loan, with respect to CCC only, the undersigned waives all interest in, and title to, such commodity. The undersigned agrees that the proceeds of the loan shall be disbursed (lienholder must check one of the following): <div style="margin-top: 10px;"> (1) <input checked="" type="checkbox"/> To the producer. (2) <input type="checkbox"/> Jointly to the producer and the undersigned lienholder. (3) <input type="checkbox"/> Jointly to the producer and the undersigned lienholder, less \$ (a) _____ administrative offset as of (b) _____ and charges due (c) _____ (DATE) </div>				
9. If administrative offsets are deducted from the loan proceeds enter estimated net disbursement amount: \$ _____				
10. NAME AND ADDRESS OF LIENHOLDER OR AUTHORIZED AGENT <div style="text-align: center; padding: 5px;"> Plains Bank 10 East Main St. Plains, GA 08210 </div>				
11A. SIGNATURE			11B. DATE (MM-DD-YYYY)	
<p><small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</small></p>				

10 Liens and Lien Waivers (Continued)

E Distributing CCC-679

DMA's shall distribute CCC-679 as follows:

- file original in a locked, fireproof file
- send 1 copy to the producer
- send 1 copy to lienholder.

11 Offsets and Assignments

A Reference for Offsets and Assignments

For offsets and assignments, DMA's shall follow the policy applicable to LSA's in 1-CMA, Section 5.

12 Annual Recertification for DMA Status

A Recertification Requirements

DMA's shall, within 4 months after the end of the DMA fiscal year, furnish the following to PSD.

- A current and audited financial statement prepared according to generally accepted accounting principles.
- A report of audit or review of the financial statement conducted by an independent Certified Public Accountant. The accountant's report of audit or review shall include the accountant's certifications, assurances, opinions, comments, and notes with respect to such financial statements.
- Additional financial security as determined by CCC, if the financial security on file with CCC does not meet current requirements or has expired.
- Basic DMA data and materials including the following:
 - any changes to DMA name, contact person name, DMA address, phone number, FAX number, or e-mail addresses
 - a current list of DMA employees authorized to conduct CCC business
 - all DMA computer generated CCC forms.

CCC-912-P, Agreement for Designated Marketing Association Terms and Conditions

The following is an example of CCC-912-P.

CCC-912-P
(08-19-03)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

**AGREEMENT FOR DESIGNATED MARKETING ASSOCIATION
TERMS AND CONDITIONS FOR PEANUTS**

NOTE: The authority for collecting the following information is Pub. L. 107-171. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the following information is Pub. L. 107-171. The information will be used to evaluate if the applicant is eligible for DMA status. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in disapproval of DMA status. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001, 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. **RETURN COMPLETED FORMS TO THE DIRECTOR, PRICE SUPPORT DIVISION, USDA, FSA, STOP 0512, WASHINGTON, D.C. 20250.**

1. Date of Agreement: (Day, Month, Year)	2. Name of Designated Marketing Association
3. Street Address	4. City, State, Zip Code
5. Phone Number (Area Code):	6. State and DMA Code: (Assigned by FSA)

7. Purpose:

- A. Under CCC's peanut marketing assistance loan program, peanut marketing assistance loans (MAL's) and loan deficiency payments (LDP's) are available to producers of peanuts in accordance with the general regulations governing the 2002 through 2007 crop, codified at 7 CFR Part 1421, and any amendments thereto (hereinafter referred to as "the regulations").
- B. According to the regulations at 7 CFR Part 1421, peanut producers may obtain peanut MAL's from a Designated Marketing Association (DMA).
- C. CCC desires to permit a DMA to act as agent for CCC in performing certain MAL making and servicing functions in accordance with CCC's peanut MAL and LDP program.

8. Definitions:

- A. **Designated Marketing Association** means an entity, or subsidiary thereof, that performs marketing functions for a marketing association of peanut producers, does not take title to the commodity, and is authorized by CCC to provide and to service CCC peanut MAL's and LDP's for individual producers who have beneficial interest in peanuts.

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- B. **Administrative County Office** means the FSA County Office where a producer's FSA records are maintained.
- C. **DMA Service County Office** means a FSA County Office designated by CCC to accept, process, and disburse peanut MAL's and LDP's to the DMA.

9. Functions to be performed by the DMA

- A. **Functions** - Subject to other provisions of this Agreement, CCC hereby appoints the person or firm named above as a DMA for the purpose of performing certain services requisite to the making and servicing of CCC peanut MAL's and LDP's to eligible producers of eligible peanuts in accordance with the peanut MAL and LDP program carried out by CCC. The DMA may act as CCC's agent for the following purposes:
- (1) preparing and executing CCC peanut MAL and LDP application documents;
 - (2) determining that producers and the commodity are eligible for peanut MAL's and LDP's;
 - (3) determining that eligible peanuts are free and clear of all liens by performing lien searches at DMA expense and, if necessary, obtaining lien waivers;
 - (4) instructing the holder of Electronic Warehouse Receipts (EWR), if applicable, to notify the EWR provider to amend the EWR to show CCC is the holder;
 - (5) receiving CCC funds, as directed by CCC, from either a CCC approved bank or a DMA Service County Office, previously approved by CCC, for the peanut MAL or LDP amounts shown on the MAL documents presented to the bank or DMA Service County Office;
 - (6) disbursing CCC peanut MAL and LDP proceeds to individual producers who have beneficial interest in eligible peanuts;
 - (7) preparing and executing documents for MAL repayments;
 - (8) collecting repayment funds from producers or buyers and transmitting such funds to CCC; transmitting documents to render forfeited collateral to CCC; and collecting data for reporting to CCC as required by CCC.
- B. In performing the above services, the DMA shall further:
- (1) perform such services in accordance with the procedures outlined in the applicable peanut program regulations and notices published in the Federal Register and the Code of Federal Regulations, applicable peanut FSA Handbooks and amendments thereto, and any Notices or instructions issued by the Deputy Administrator for Farm Programs; or Director, Price Support Division (PSD).
 - (2) make and service CCC peanut MAL's and LDP's, only upon presentation of warehouse receipts, (unless otherwise provided by CCC), and grading information by an eligible producer to the DMA;

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- (3) become familiar with the peanut program as set forth in the applicable regulations, notices published in the Federal Register, FSA peanut MAL Handbooks, forms, and other instructions issued relating to the peanut MAL and LDP program;
 - (4) attend DMA and peanut MAL and LDP program training offered by CCC at DMA expense; and
 - (5) provide sufficient personnel, computer hardware, computer communications systems, and software, as determined necessary by CCC, to administer the peanut MAL and LDP program.
- 10. **CCC shall:**
 - A. provide producer eligibility and payment limitation data to the DMA that the DMA will use to determine whether the producer is an eligible producer or if the producer will exceed allotted payment limitation; and
 - B. make FSA claim, assignment, debt, and other applicable information available to the DMA.
- 11. **Indebted Producers:** If the DMA is notified at any time that a producer requesting peanut MAL's or LDP's through the service provided by the DMA is indebted to CCC, is delinquent on other non-tax federal debt, or is otherwise subject to offset by CCC in accordance with the offset regulations of CCC, the DMA shall:
 - A. contact CCC for the amount that is owed to CCC and is to be offset from the MAL or LDP proceeds prior to the disbursement of such proceeds; and
 - B. prepare a check payable to CCC for the amount collected by offset and forward the check to CCC as directed by CCC.
- 12. **Fees:** The DMA may charge the producer requesting a CCC peanuts MAL or LDP a fee for preparation of MAL or LDP documents and for servicing the MAL, at a rate determined by the DMA. Fees shall be deducted from the MAL or LDP amount received by the DMA from CCC before distribution to the producer. Any fees charged by the DMA for making and servicing peanut MAL's or LDP's shall be assessed at the same rate for each producer requesting a CCC peanut MAL or LDP through the service provided by the DMA.
- 13. **Power of Attorney Policy:** Producers may designate the DMA, on form FSA-211 (Power of Attorney), to be the producer's agent for the purpose of executing MAL or LDP documents in order to obtain MAL's or LDP's, repaying peanut MAL's, or marketing peanuts on behalf of the producer. If the DMA is designated by a producer to be the producer's agent for the purpose of executing documents to obtain a peanut MAL or LDP, repaying peanut MAL's on behalf of the producer, or marketing the producer's peanuts, the DMA shall:

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- A. disclose to CCC all facts which the DMA knows or should know would reasonably affect the judgment of CCC in permitting the DMA to act as agent for both CCC and the producer;
- B. include the following language (or equivalent language approved by CCC) as an attachment to each FSA-211 entered into between the DMA and a producer:

"[The producer] hereby acknowledges that [the DMA] is an agent of the Commodity Credit Corporation for the purpose of performing certain services requisite to the making and servicing of Commodity Credit Corporation peanut MAL's and LDP's to eligible producers of eligible peanuts and agrees to permit [the DMA] to act as agent for both [the producer] and the Commodity Credit Corporation. [The DMA] shall disclose to [the producer] all facts which [the DMA] knows or should know would reasonably affect the judgement of [the producer] in permitting [the DMA] to act as agent for both [the producer] and the Commodity Credit Corporation"; and
- C. submit for CCC's approval a sample copy of the FSA-211 and any attachments to be entered into between the DMA and producer.

14. Prohibited Activity: The DMA shall not:

- pool the producer's peanuts for the purpose of obtaining peanut MAL's or LDP's from CCC;
- pool the proceeds obtained from peanut MAL's or LDP's made by CCC;
- make settlement of MAL proceeds with producers on a pool basis;
- take title to any peanuts;
- make farm stored MAL's or LDP's unless authorized by CCC;
- make MAL's or LDP's to producers involved in bankruptcy proceedings unless otherwise authorized by CCC;
- make MAL's or LDP's to ineligible peanut producers or on ineligible peanuts;
- operate the DMA operation under the same entity and tax identification number that is a CCC-approved Cooperative Marketing Association (CMA).

15. Scheme or Device: The DMA will not adopt any scheme or device to circumvent the purpose of the applicable commodity program regulations, the regulation governing DMA's, or this Agreement.**16. Marketing Services:** Any charge for marketing services performed by the DMA for a producer requesting CCC peanut MAL's or LDP's through the service provided by the DMA shall be established by the producer and the DMA before execution of a marketing agreement and power of attorney. Any such charge will be assessed at the same rate for all producers for which the DMA performs marketing services.

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17. **Nondiscrimination:** The DMA shall not discriminate against any person because of race, color, religion, sex, national origin, marital status, national origin, physical disability, mental disability, or age in conducting activities in accordance with this Agreement. The services of the DMA shall be made available to all eligible producers whether or not such producers have granted the DMA a power of attorney or have designated the DMA as the producer's agent for the purpose of:

- A. executing MAL documents to obtain peanut MAL's, or LDP's
- B. repaying such peanut MAL's on behalf of the producer; or
- C. marketing the producer's peanuts.

18. **Financial Security:**

- A. The DMA shall furnish security to CCC in order to guarantee performance. The security shall be either:
 - a certified or cashier's check payable to CCC;
 - an irrevocable commercial letter of credit in the form approved by CCC;
 - a performance or surety bond conditioned on the DMA fully discharging all of its obligations under this Agreement;
 - other form of security, as CCC may deem appropriate.

The amount of the financial security shall be equal to an amount, as determined by CCC, that protects CCC from risk and takes into consideration the DMA's financial condition based upon the financial statements presented to gain initial DMA status and the financial statements presented to maintain DMA status.

- B. The DMA is liable to CCC for any losses incurred by CCC as a result of the DMA's failure to discharge all of its obligations under this Agreement. Payment in the amount of such losses shall be made to CCC first, from the financial security furnished by DMA, and second, by the DMA if the amount of the loss exceeds the amount of the financial security.

19. **Records Retention:** The DMA shall maintain, according to FSA Handbook 25-AS, for an indefinite period, unless otherwise notified by CCC, all MAL or LDP, current and complete records with respect to executed MAL and LDP documents required by this Agreement.

20. **Field Reviews:** The DMA shall permit CCC or its representatives to examine the books, MAL records, papers, and accounts relating to the activities of the DMA in connection with the making and servicing of CCC peanut MAL's or LDP's any time during normal business hours. Examination and inspections made by CCC or by a Federal, State, or other body authorized by CCC shall, however, in no way relieve the DMA of its obligations under the terms and conditions of this Agreement.

21. **Release of Information:** No information collected or acquired by the DMA in its capacity as agent of CCC shall be released, supplied, or made available, without prior approval of CCC, to any person other than CCC or the person who supplied such information.

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- 22. Maintaining DMA Status:** The DMA shall, within 4 months of the end of the DMA fiscal year, furnish to PSD:
- A. a current and audited financial statement prepared in accordance with generally accepted accounting principles and including the items listed below:
 - balance sheet;
 - income statement (profit and loss statement);
 - cash flow statement;
 - statement of retained earnings;
 - B. a report of audit or review of the financial statement conducted by an independent Certified Public Accountant in accordance with standards established by the American Institute of Certified Public Accountants. The accountant's report of audit or review shall include the accountant's certifications, assurances, opinions, comments and notes with respect to such financial statements; and
 - C. basic DMA data including:
 - any changes to DMA name, contact person name, DMA address, phone number, FAX number, or e-mail addresses;
 - a current list of DMA employees authorized to conduct CCC business;
 - copies of all CCC forms that are computer-generated by the DMA.
- 23. Liability:** The DMA shall hold CCC harmless from any claim made against CCC in connection with any MAL or LDP making, MAL servicing, or other activity carried out by the DMA which is not in accordance with the terms and conditions of this Agreement.
- 24. Termination or Suspension:** Either party may terminate this Agreement at any time upon 30-calendar days written notice to the other party. CCC may terminate this Agreement without providing 30 days notice if CCC determines that the DMA has failed to meet the terms and conditions of this Agreement. Termination of this Agreement by either party is without prejudice to any rights of a party against the other under this Agreement arising from a party's failure to meet the terms and conditions of this Agreement. If the DMA sends a notice of termination to CCC or receives a notice of termination from CCC, the DMA shall immediately cease the execution of MAL or LDP documents. CCC may also suspend the DMA from making new peanut MAL's and LDP's. If the DMA can come into compliance with CCC terms and conditions within a time period established by CCC, the suspension may be lifted.

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